

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL  
DISTRICT AND LOS ANGELES  
COUNTY DEPARTMENT OF MENTAL  
HEALTH.

OAH CASE NO. 2010090512

ORDER DENYING MOTION TO  
DISMISS LOS ANGELES COUNTY  
DEPARTMENT OF MENTAL HEALTH

On September 13, 2010, Student filed a request for a due process hearing (complaint) naming Los Angeles Unified School District (District) as the respondent.<sup>1</sup> On September 23, 2010, District filed a motion to add Los Angeles County Department of Mental Health (DMH) as a party. On September 29, 2010, the Office of Administrative Hearings (OAH) issued an Order Granting Motion to Add Party, DMH.

On October 5, 2010, DMH filed a Motion to Dismiss, on the basis that Student's complaint involves an April 5, 2010 individualized education program (IEP) and at that time DMH was not providing Student special education or related services and was not involved in decisions regarding Student. Neither Student nor District filed an opposition or response to DMH's motion.

APPLICABLE LAW

Government Code section 7586, subdivision (c), provides that all hearing requests that involve multiple services that are the responsibility of more than one state department shall give rise to one hearing with all responsible state or local agencies joined as parties.

Education Code sections 56500 and 56501, subdivision (a), establish two requirements for including an entity in a special education due process hearing. First, the entity must be a public agency "providing special education or related services." (Ed. Code,

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

§ 56500.) Second, it must be “involved in any decisions regarding a pupil.” (Ed. Code, § 56501, subd. (a).)

A student suspected of needing mental health services may, after the Student’s parent has consented, be referred to a community mental health service. (Gov. Code, § 7576; Ed. Code, § 56331, subd. (a) and (b); Cal. Code Regs., tit. 14, § 60040, subd. (a).) When an IEP team recommends a residential placement for a student, the IEP team shall be expanded to include a representative of county mental health. If a student’s IEP calls for residential treatment placement, the county mental health department shall be designated as the case manager. (Gov. Code, § 7572.5, subd. (a).)

## DISCUSSION

On September 29, 2010, OAH issued an Order adding DMH as a party. This Order was based on Student’s allegations in his complaint that: (1) DMH’s mental health assessment lacked critical information regarding placement, (2) DMH was a public agency responsible for providing special education or related services, and (3) DMH was involved in decisions regarding Student’s special education.

DMH argues that Student’s complaint only involves an April 5, 2010 individualized education program (IEP) and at that time it was not providing Student related services and was not involved in decisions regarding Student. However, the complaint alleges that Student was denied a FAPE because District did not offer him a placement at a residential treatment center, after DMH had conducted an AB 3632 mental health assessment. The complaint also alleges that because the DMH assessor lacked critical information he did not recommend that Student be placed in residential treatment center. The complaint further alleges that parents placed Student at Red Rock Canyon, a residential treatment center, for the 2010-2011 school year and request reimbursement for all expenses.

According to Student’s allegations, the DMH assessment was a factor in District’s offer of placement. Under the authorities cited above, DMH was the agency responsible for providing Student mental health services both in the community and in a residential treatment center. Because Student’s complaint involves multiple services that are the responsibility of more than one agency, all responsible state or local agencies must be joined as parties. Therefore, DMH’s request to be dismissed as a party is denied.

## ORDER

1. The motion to dismiss DMH as a party is denied.

2. The matter shall proceed as scheduled.

Dated: October 25, 2010

/s/

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CLARA SLIFKIN  
Administrative Law Judge  
Office of Administrative Hearings